

C) REMARKS:

1. Introduction

Claims 1-24 are currently pending in this application. Claims 1 and 13 are independent. Certain amendments to claims 1 and 13 have been entered herein in response to the Examiner's rejections, as detailed hereinafter. Other amendments to claims 7, 8, 19 and 20 have been made to clarify the scope of that which the Applicants regard as their invention, and are not meant to unduly restrict the scope of those recitations that existed prior to such amendments or limit the applicability of any equivalents thereto.

No new subject matter has been added to this application by these amendments.

2. Objection to the Claims

In paragraphs 1-2 of the Office Action, the Examiner has objected to claim 1 for certain informalities. In response, claim 1 has been amended herein to remove the first occurrence of the “.” punctuation. Withdrawal of this objection is therefore respectfully requested.

3. Rejection of Claims under 35 U.S.C. §102(e)

In paragraphs 3-14 of the Office Action, the Examiner has rejected original claims 1, 5-13, and 17-24 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,308,213 to Valencia (hereinafter ‘Valencia’).

Regarding claim 1 and the rejected claims depending therefrom, this rejection has been overcome by the following amendments entered to that independent claim:

(a) “receiving, at a tunneling endpoint in the service network, an encapsulated packet transmitted from a network device connected to the high-speed access network infrastructure by an upstream and a downstream channel assigned by the high-speed access network infrastructure, the network device having a source address assigned by the service network based on a subscription to services offered by the service network;”

(b) “de-encapsulating the packet to reveal the source address; and

if the source address is associated with an authorized subscriber to services offered by the service network, forwarding the packet to a destination network address indicated in the packet after said de-encapsulating,,,. ”

Support for these recitations can be found, inter alia, in the Applicant’s Specification at:

(a) FIG. 7, the Summary of the Invention, the Detailed Description at p. 8, lines 216 and concluding at page 9, line 228; and

(b) p. 8, line 216 - page 9, line 228.

Regarding independent claim 13 and the rejected claims depending therefrom, this rejection has been overcome by the following amendments entered to that independent claim:

(c) “creating a packet related to services offered by a service network, the packet having a source address assigned by the service network to the network access device and a first destination address;”

(d) “encapsulating the packet by including a source address assigned by the high-speed access network infrastructure to the network access device and a second destination address corresponding to a tunneling endpoint of the service network;” and

(e) “tunneling the packet, after said encapsulating, to the tunneling endpoint in the service network based on the second destination address via a downstream channel of the high-speed access network infrastructure so that the tunneling endpoint can de-encapsulate the packet and forward the packet to the first destination address....”

Support for these recitations can be found, inter alia, in the Applicant’s Specification at:

(c)-(e) p. 4, lines 99-117 and p. 8, lines 195-216.

The Applicants have been mindful of the provisions of MPEP §608.01(o) in making these amendments.

Valencia is devoid of any teaching of using a high-speed access network infrastructure as recited in amended independent claims 1 and 13. Instead, it is specifically concerned throughout with the implementation network communications using only dial-up networking functions. See, e.g. Col. 1, lines 10-13, Col. 1, line 66 - Col. 2, line 10; Col. 3, line 60 - Col. 4, line 3, and claims 1 and 18 of Valencia.

The implementation of tunneling and other techniques to communicate with a plurality of different service providers over a dial-up connection as taught by Valencia is explicitly distinguished in the Background of the Invention of the Applicants' application.

Valencia is further devoid of any teaching or suggestion of a first source address assigned to a network access device by its service provider network and a second source address assigned to the network access device by the high-speed network access infrastructure as recited in various forms in amended claims 1 and 13. This has the benefit of allowing packets to be tunneled to the service network while such packets remain transparent to the high-speed access network infrastructure (see, the Detailed Description at p. 9 lines 226-228), which is not described or suggested in Valencia or any of the prior art of record.

Therefore, reconsideration and withdrawal of the rejections of claims 1 and 7 are respectfully requested. Reconsideration and withdrawal of the rejections of remaining claims 5-12 and 17-24 are likewise respectfully requested based on their ultimate dependency on one of independent claims 1 and 7.

3. Rejection of Claims under 35 U.S.C. §103(a)

In paragraphs 15-18 of the Office Action, the Examiner has rejected original claims 2-4 and 14-16 under 35 U.S.C. §103(a) as being obvious over Valencia in view of U.S. Patent No. 6,484,210 to Adriano et al (hereinafter 'Adriano').

The distinctions of the amended independent claims described in the foregoing are repeated here with respect to Valencia and Adriano, both alone and in combination. Adriano fails to teach or suggest the recitations of (a)-(e) of independent claims 1 and 13 in the preceding section. Instead, Adriano is concerned throughout with providing a two-way communication over a dial-up connection, and teaches only a one-way upstream channel over a high-speed network access infrastructure that is used in combination with the two-way dial-up connection. See, e.g., the Abstract; Col. 2, lines 37-44; Col. 3, lines 1-5; Col. 4, lines 11-22; Col. 6, lines 10-19; Col. 8, lines 52-59 and claims 1 and 7 of Adriano.

Adriano specifically teaches away from allowing a downstream connection between a network access device and a high-speed network access infrastructure at Col. 2, lines 20-36. The

Applicants' independent claims, on the other hand, recite that the network access device is provided with a downstream channel for communications over a high-speed network access infrastructure. Accordingly, claims 2-4 and 14-16 are allowable at least for these reasons, due to their ultimate dependency of independent claims 1 or 13. Reconsideration and withdrawal of this rejection of the claims is therefore earnestly solicited.

4. Conclusion

This amendment is responsive to each issue raised in the Office Action dated August 17, 2004. All objections and rejections of pending claims 1-24 have been overcome above. The Applicant therefore respectfully requests allowance of each of the pending claims as amended herein, and issuance of the present application.

Please note that an APPOINTMENT OF NEW ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS has been filed with this Response. Please recognize the representation of, inter alia, the undersigned attorney and direct all correspondence to Mr. S.H. Dworetsky, AT&T Corp., Room 2A-207, One AT&T Way, Bedminster, NJ 07921 as stated therein. The Examiner is invited to contact the undersigned attorney by telephone if it will advance the prosecution of this application.

Please enter and consider the references cited in the enclosed Information Disclosure Statement.

In the event that a further extension of time is required in addition to that requested previously herein, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time, or credit any overpayment, to the below-signed practitioner's deposit account number: 502396.

Respectfully submitted,

By:



Charles A. Rattner
Registration No. 40,136
12 Homewood Lane
Darien, CT 06820-6109
(203) 662-9858
(203) 547-6129 (facsimile)
crattner@axiomlegal.net

Dated: February 17, 2005